

INITIAL STATEMENT OF REASONS

- a) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are Necessary

Section 80017

Specific Purpose:

This amendment renames the section title from “Applicant Qualifications” to “Nondiscrimination of Applicants.” It deletes lettering of Section 80017(a) to convert the standalone applicant qualification provision to a standalone applicant nondiscrimination protection, and adds anti-discrimination protection for “gender identity” and “HIV status.”

Factual Basis:

This amendment is necessary to implement the anti-discrimination protection for applicants pursuant to Welfare and Institutions Code Section 16013. This amendment clarifies that applicant qualification provisions are separate from applicant nondiscrimination protections and that applicants cannot be discriminated against.

Section 83017(a)

Specific Purpose:

This amendment repeals reference to Section 83017(a) and renumbers Section 83017(b) to Section 83017(a).

Factual Basis:

This amendment is necessary to be consistent with the amendment of Section 80017. Section 83017(a), that incorporates by reference 80017, is not necessary as Chapter 4, Small Family Homes, which includes Section 83017, is governed by Chapter 1, General Licensing Section 83064(a) through (d) requirements and so specified in Chapter 4, Small Family Homes Section 83000.

Sections 83064(a) through (d)

Specific Purpose:

This amendment repeals reference to Section 80064 by repealing Section 83064(a) and renumbers Section 83064(b) through (e) to Section 83064 (a) through (d).

Factual Basis:

This amendment is necessary because Section 80064(a) incorporates by reference Section 80064, Administrators-Qualifications and Duties. Small Family Homes do not have Administrators; regulations governing Administrators such as Section 80064 are inapplicable to Small Family Homes.

Sections 83064(a)(7) through (10)

Specific Purpose:

It adopts Section 83064(a)(10), which states that unless restricted by the case plan adopted by the court or other court order, the licensee shall permit and facilitate connections between the child and the child's family and non-relative extended family members. The department is also adopting language that clarifies that nothing in this section shall be interpreted to require that a foster care provider take any action that would impair the health and safety of children in out-of-home placement.

Factual Basis:

The amendment adopting subsection (10) is necessary to implement a child's connections pursuant to Welfare and Institutions Code Section 16001.9 and is consistent with Welfare and Institutions Code Sections 366.1 and 366.21. Requiring the licensee to permit and facilitate the child's connections with family and non-relative extended family members is within the small family home licensee's appropriate scope of duties. This adoption maintains consistency in clarifying an additional licensee responsibility for children's residential licensing categories. Support of permitting and maintaining these connections promotes lasting relationships with caring people and is in the best interest of the child. Clarifying language providing protections to foster youth is necessary to be consistent with Section 16001.9(b).

New Sections 83064(e) through (e)(2)

Specific Purpose:

This amendment adopts Sections 83064(e) through (e)(2), which require the licensee to ensure that caregivers receive training in nondiscriminatory care.

Factual Basis:

This amendment is necessary to implement the caregiver training component of nondiscriminatory care pursuant to Health and Safety Code Section 1529.2. This amendment adds and clarifies an additional licensee responsibility. Requiring the licensee to ensure that caregivers meet initial and ongoing training requirements regarding nondiscriminatory care is within the small family home licensee's appropriate scope of duties. This amendment is non-duplicative because recently adopted Foster Youth Personal Rights regulations only implement nondiscriminatory care. These regulations implement the staff training component of nondiscriminatory care.

Sections 83075(f) through (f)(2)

Specific Purpose:

This amendment is necessary to clarify in subsection (f) that any time a child is in the home, at least one person providing direct care and supervision of the child shall have received current training in First Aid and CPR. Subsection (f)(1) is adopted to require the caregiver to complete First Aid and CPR training in addition to the training which increases understanding of, and skill in, caring for children. Current subsection (f)(1) is renumbered to (f)(2) and amended for clarity.

Factual Basis:

This amendment is necessary to clarify that First Aid and CPR training is required. First Aid and CPR are necessary to ensure the health and safety of children in Small Family Homes and is consistent with the training requirement for caregivers in Foster Family Homes specifically Section 89405(a). Children in Small Family Homes and Foster Family Homes are similar in age and their need to receive care from individuals trained in First Aid and CPR.

Sections 84065(i)(3) and (i)(3)(S)

Specific Purpose:

The amendment to 84065(i)(3) clarifies that the required training is to include at a minimum all of the topics that follow. Section 84065(i)(3)(S) is adopted to require that training topics shall include the child's right to have fair and equal access to all available services, placement, care, treatment, and benefits, and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status.

Factual Basis:

This amendment is necessary to implement the personnel training component of nondiscriminatory care pursuant to Assembly Bill (AB) 458, Chapter 331, Statutes of 2003. Requiring the licensee to ensure that personnel receive training in nondiscriminatory care is within the group home licensee's appropriate scope of duties. This amendment is non-duplicative because recently adopted Foster Youth Personal Rights regulations only implement nondiscriminatory care. These regulations implement the personnel training component of nondiscriminatory care.

Section 84065(j)(3)(O)

Specific Purpose/Factual Basis:

Section 84065(j)(3)(O) is amended to update a cross reference.

Section 84068.2(e)

Specific Purpose:

This amendment adopts Section 84068.2(e), which state that unless restricted by the case plan adopted by the court or other court order, the licensee shall permit and facilitate connections between the child and the child's family and nonrelative extended family members. The department is also adopting language that clarifies that nothing in this section shall be interpreted to require that a foster care provider take any action that would impair the health and safety of children in out-of-home placement.

Factual Basis:

This amendment is necessary to implement a child's connections pursuant to Welfare and Institutions Code Section 16001.9 and is consistent with Welfare and Institutions Code Sections 366.1 and 366.21. Permitting and facilitating these connections promotes positive lasting relationships with care people and is in the best interest of the child. Clarifying language providing protections to foster youth is necessary to be consistent with Section 16001.9(b).

Section 84090(h)(1)(H)

Specific Purpose:

This amendment to Section 84090(h)(1)(H) adopts language that requires Group Home administrators be trained in nondiscriminatory policies.

Factual Basis:

This amendment is necessary to implement the administrator certification training component of nondiscriminatory care pursuant to Health and Safety Code Section 1522.41. It clarifies administrator training requirements in implementing an additional licensee responsibility. Requiring group home administrators to have training in nondiscriminatory care is within the group home licensee's appropriate scope of duties. This amendment is non-duplicative because recently adopted Foster Youth Personal Rights regulations only implement nondiscriminatory care. These regulations implement the administrator training component of nondiscriminatory policies.

Sections 84165(f)(2)(C) through (f)(2)(F)

Specific Purpose:

This amendment adopts language to specify that personnel be trained in nondiscriminatory personal rights. It separates “due process rights and procedures for accessing those rights, and staff responsibilities” because of that separation, current subsection (f)(2)(D) is renumbered to (f)(2)(F).

Factual Basis:

This amendment is necessary to implement the personnel training component of nondiscriminatory care pursuant to Assembly Bill (AB) 458, Chapter 331, Statutes of 2003. It adds and clarifies personnel training requirements in implementing an additional licensee responsibility. Requiring the licensee to provide personnel with training on nondiscriminatory personal rights is within the group home licensee’s appropriate scope of duties in operating a community treatment facility. This amendment is non-duplicative because recently adopted Foster Youth Personal Rights regulations only implement nondiscriminatory care. These regulations implement the personnel training component of nondiscriminatory care.

Sections 84265(j) through (m)

Specific Purpose:

This amendment adopts Section 84265(j), which requires that personnel be trained in nondiscriminatory care. It also renumbers Sections 84265(j) through (l) to Sections 84265(k) through (m).

Factual Basis:

This amendment is necessary to implement the personnel training component of nondiscriminatory care pursuant to Assembly Bill (AB) 458, Chapter 331, and Statutes of 2003. It adds and clarifies personnel training requirements and maintains consistency across children’s residential licensing categories. Requiring the licensee to provide personnel with training on nondiscriminatory care is within the group home licensee’s appropriate scope of duties in caring for children under six years of age. This amendment is non-duplicative because recently adopted Foster Youth Personal Rights regulations only implement nondiscriminatory care. These regulations implement the personnel training component of nondiscriminatory care.

Sections 86065(a)(3) through (6)

Specific Purpose:

This amendment adds Section 86065(a)(3), which states that training for all personnel shall address the child’s right to have fair and equal access to all available services, placement, care, treatment, and benefits, and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status. Section 86065(a)(3) through (5) are renumbered to Sections 86065(a)(4) through (6) respectively.

Factual Basis:

This amendment is necessary to implement the personnel training component of nondiscriminatory care pursuant to Assembly Bill (AB) 458, Chapter 331, Statutes of 2003. Requiring the licensee to provide personnel with training on nondiscriminatory care is within the transitional housing placement program licensee's appropriate scope of duties. This amendment is non-duplicative because recently adopted Foster Youth Personal Rights regulations only implement nondiscriminatory care. These regulations implement the personnel training component of nondiscriminatory care.

Section 86068.2(e)

Specific Purpose:

This amendment adopts Section 86068.2(e), which states that unless restricted by the case plan adopted by the court or other court order, the licensee shall permit and facilitate connections between the participant and the participant's family and non-extended family members.

Factual Basis:

This amendment is necessary to implement a participant's connections pursuant to Welfare and Institutions Code Section 16001.9 and is consistent with Sections 366.1 and 366.21. Requiring the licensee to permit and facilitate the participant's connections is within the transitional housing placement program licensee's appropriate scope of duties. Permitting and facilitating these connections promotes positive lasting relationships with caring people and is in the best interest of the participant.

Section 86517

Specific Purpose:

This amendment adopts anti-discrimination protection for "gender identity" and "HIV status".

Factual Basis:

This amendment is necessary to implement the anti-discrimination protection for applicants pursuant to Welfare and Institutions Code Section 16013. This amendment clarifies that applicants cannot be discriminated against.

Section 88001et seq.

Specific Purpose/Factual Basis:

This section is amended to correct the numbering format from letter period “a.” to letter in parenthesis “(a)” for consistency with other facilities’ manuals.

Sections 88001(p)(1) through (p)(3)

Specific Purpose:

This amendment adopts Section 88001(p)(1) through (p)(1)(B), which defines the term “placement hold” by providing a definition that applicants can refer to when providing information to foster family agencies. It also renumbers Sections 88001(p)(1) and (2) to Sections 88001(p)(2) and (3) respectively.

Factual Basis:

This amendment is necessary to define “placement hold” as used in Health and Safety Code Section 1506.7. Health and Safety Code Section 1506.7 requires prospective certified family homes disclose placement hold history to foster family agencies. Pursuant to with Health and Safety Code Section 1506.7 prospective certified family homes must disclose placement hold history to foster family agencies. Placement hold is a factor that may affect children’s safety in placement and makes it necessary for prospective certified family homes to disclose any history of being put on “placement hold” status by a foster family agency. It also renumbers the section to allow addition of the “placement hold” definition to regulations.

Sections 88022(a)(5)(B) through (a)(5)(E)

Specific Purpose:

The amendment to Section 88022(a)(5)(B) adds a reference to Health and Safety Code Section 1529.2 which requires foster family agencies to provide training to certified foster parents. Section 88022(a)(5)(D) is adopted to state that the plan of operation shall contain a written description of the foster family agency training plan, to include initial and ongoing training of foster family agency staff and certified parents in a child’s right to have fair and equal access to all available services, placement, care, treatment, and benefits, and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status. Section 88022(a)(5)(D) is renumbered to Section 88022(a)(5)(E) to accommodate addition of new Section 88022(a)(5)(D).

Factual Basis:

This amendment is necessary to implement the staff and certified parent training component of nondiscriminatory care pursuant to Health and Safety Code Section 1529.2. It clarifies staff and certified parent training requirements. Training on nondiscriminatory care is an appropriate component of training to be included in the licensee’s plan of operation. This

amendment is non-duplicative because recently adopted Foster Youth Personal Rights regulations only implement nondiscriminatory care.

Sections 88031(a)

Specific Purpose:

This section is adopted to state that foster family agencies must require certified family home applicants to provide information about whether the applicant has been denied certification or put on a placement hold and declare that this information is true. Handbook Sections 88031(a)(3)(A) et seq. and (a)(4)(A) are added to provide statutory language regarding these requirements.

Factual Basis:

Adoption of this section is necessary to implement foster family agency procedures for certified family home applications pursuant to Health and Safety Code Section 1506.7. This section clarifies and is consistent with Health and Safety Code Section 1506.7(a) and Section 1506.7(b)(2). Section 1506.7(a) and Sections 1506.7(b)(a) require a declaration to be included in applications for certification.

Sections 88031(b) through Handbook Section 88031(b)(2)

Specific Purpose:

This section is adopted to provide that foster family agencies must provide certified family home applicants with notice required by Health and Safety Code Section 1506.7. Handbook Sections 88031(b)(1) and (b)(2) are added to provide reference to the statutory language regarding these requirements found in Health and Safety Code Section 1506.7.

Factual Basis:

Adoption of these sections is necessary to implement foster family agency procedures for certified family home applications pursuant to Health and Safety Code Section 1506.7. This section clarifies and is consistent with Sections 1506.7(b)(1) and. Section 1506.7(b)(2) of the Health and Safety Code. Section 1506.7(b)(1) requires that applications for certification contain notice that a reference check will be conducted. Section 1506.7(b)(2) requires that applications for certification include a statement about the consequences for submitting false information.

Sections 88031(c) through Handbook Section 88031(c)(3)

Specific Purpose:

Section 88031(c) is adopted to provide that foster family agencies shall make contacts and conduct a reference check as required by statute. Handbook Sections 88031(c)(1) through (c)(3) are added to provide statutory language regarding these requirements.

Factual Basis:

Adoption of this section is necessary to implement foster family agency procedures for certified family home applications pursuant to Health and Safety Code Sections 1506.8, 1506.9(b), and 1536(c). This section clarifies and is consistent with Health and Safety Code Section 1506.8, 1506.9(b) and 1536(c). Section 1506.8 states that a foster family agency shall contact foster family agencies, state licensing offices, or county licensing offices for references on an applicant. Section 1506.9(b) provides immunity from civil liability in the exchange of reference-related information. Section 1536(c) states that a foster family agency may both give and receive information about applicants in their exchanges with references. This section clarifies and is consistent with Health and Safety Code Sections 1506.8, 1506.9(b), and 1536(c).

Sections 88054 et seq.

Specific Purpose:

Sections 88054(a)(1) and (2) is adopted to provide that the department shall assess an immediate initial civil penalty of \$50.00 when a foster family agency fails to provide the department with a log of certified homes or decertified homes by the 10th day of the following month or fails to notify the department within one business day that the agency has decertified a home for a reason specified in Section 88061(h)(1). Section 88054(a)(1) and (2) are adopted to further provide that the department shall assess a civil penalty of \$50.00 per day for each citation until the date the agency provides the department with the log or notifies the department that it has decertified a home.

Factual Basis:

Adoption of these sections is necessary to implement the Department's authority pursuant to Health and Safety Code Section 1536 and Section 1548 to issue a citation and assess a civil penalty. It states Department authority to assess civil penalties under specified circumstances, the reasons and procedures for assessing these penalties, and the amounts that shall be assessed.

Sections 88065.3(g)(5) and Handbook Section 88065.3 (g)(5)(A)

Specific Purpose:

Section 88065.3(g)(5) is amended to add a licensee responsibility to existing language to specify that, in addition to developing and updating the child's needs and services plan,

social work personnel must identify individuals who are important to the child. Handbook Section 88065.3(g)(5)(A) is added to provide statutory language regarding this requirement.

Factual Basis:

This amendment is necessary implement Welfare and Institutions Code Sections 366.1 of that requires social workers to ask every child who is 10 years of age or older and who has been in and out-of-home placement for six months or longer to identify any individuals other than the child's siblings who are important to the child. It clarifies that foster family agency social workers must ask the child about important individuals consistent with Welfare and Institutions Code Section 366.1(g). Identifying individuals who are important to the child is necessary so that family homes certified by a foster family agency can permit and facilitate these connections. Support of these connections encourages relationships with caring people and permanent placements for children.

Sections 88068.2(a) and (e)

Specific Purpose:

Section 88068.2(a) is amended for clarity. Section 88068.2(e) is adopted to state that unless restricted by the case plan adopted by the court or other court order, the licensee shall permit and facilitate connections between the child and the child's family and nonrelative extended family members. The department is also adopting language that clarifies that nothing in this section shall be interpreted to require that a foster care provider take any action that would impair the health and safety of children in out of home placement.

Factual Basis:

These amendments are necessary to clarify that the child's needs are identified in the needs and services plan. Reference to the child's needs is consistent with the intent of the needs and services plan and the licensee responsibility to permit and facilitate connections between the child and the child's family and non-relative extended family members. The adoption to (e) is necessary to implement Welfare and Institutions Code Sections 366.1 and 366.21 and is consistent with Welfare and Institutions Code Section 16001.9. The child's connections are an appropriate component to be included in the child's needs and services plan. Permitting and maintaining these connections promotes lasting relationships with caring people and is in the best interests of the child. Clarifying language providing protections to foster youth is necessary to be consistent with Section 16001.9(b).

Sections 88069.7(b) through (b)(2)

Specific Purpose:

Section 88069.7(b) is amended for clarity. Section 88069.7(b)(1) is amended to repeal references to a "face sheet." Section 88069.7(b) and (b)(1) are also amended to specify information to be maintained in the foster family agency's case record for its certified family homes and licensed foster family homes by stating that, for each certified family

home or licensed foster family home, the case record must include an application for each home. Section 88069.7(b)(2) is amended to eliminate the need for the home study to be typewritten.

Factual Basis:

These sections are amended for consistency with Health and Safety Code Section 1506. that requires applicants for certification to complete an application form that includes specified information. This statute does not provide for the use of a face sheet as an alternative to the application form.

Section 89317

Specific Purpose:

The adoption of this new section is for the purpose of separating the nondiscrimination of applicants regulation from the applicant qualification regulations for clarity. It also amends the nondiscrimination of applicants regulation for clarity and to include anti-discrimination protection for “gender identity” and “HIV status.”

Factual Basis:

This amendment is necessary to implement the anti-discrimination protection for applicants pursuant to Welfare and Institutions Code Section 16013. It clarifies that applicant qualifications provisions are separate from applicant nondiscrimination protections and that applicants cannot be discriminated against. It also clarifies that this protection applies to applicant licensure or approval.

Section 89318

Specific Purpose:

The purpose of this amendment is to separate the nondiscrimination of applicants regulation from the applicant qualification regulations for clarity. As a result, current Sections 89317 (b) and (c) are renumbered to Sections 98318(a) and (b) respectively.

Factual Basis:

Renumbering Section 89317 to Section 89318 is necessary to accommodate and clarify “Applicant Qualifications” regulations as separate from “Nondiscrimination of Applicant”.

Section 89378(d)

Specific Purpose:

Section 89378(d) is adopted to state that unless restricted by the case plan adopted by the court or other court order, the licensee shall permit and facilitate connections between the

child and the child's family and non-relative extended family members. The department is also adopting language that clarifies that nothing in this section shall be interpreted to require that a foster care provider take any action that would impair the health and safety of children in out-of-home placement.

Factual Basis:

This amendment is necessary to implement a child's connections pursuant to Welfare and Institutions Code Section 16001.9 and is consistent with Welfare and Institutions Code Sections 366.1 and 366.21. Requiring the licensee to permit and facilitate the child's connections with family and non-relative extended family members is within the foster family home licensee's appropriate scope of duties. Support of these connections encourages relationships with caring people and permanent placements for foster children. Clarifying language providing protections to foster youth is necessary to be consistent with Section 16001.9(b).

Sections 89405(b) through (b)(1)(J)

Specific Purpose:

Section 89405(b) is amended to reference the training requirement is specified in Health and Safety Code 1529.2(b) and repealing language already contained in statute correct a cross-reference. Section 89405(b)(1) is adopted as regulation and repealed from handbook to provide as illustrative but not exhaustive list of courses seminars, conferences and training topics that will be accepted by the licensing agency to fulfill the training requirement specified in Health and Safety Code Section 1529.2(b).

Factual Basis:

This amendments is necessary to interpret, clarify and enforce the training specified in Health and Safety Code Section 1529.

Current Handbook Sections 89405(b)(1), et seq.

Specific Purpose:

Handbook Section 89405(b)(1) is renumbered to 89405(b)(2). Handbook Section 89405(b)(1)(a) is being deleted because it does not apply. Quotation marks are being removed from Handbook Sections 89405(b)(2)(i), (ii), and(B), 89405(b)(3)(A) through (F), and 89405(b)(4)(A) through (E). Handbook Sections 89405(b)(3)(F) and (b)(4)(E) are adopted to provide statutory language for pre- and post-placement training for foster parents.

Factual Basis:

These amendments are necessary to include the foster parent training component of nondiscriminatory care pursuant to Health and Safety Code Section 1529.2. It maintains consistency across children's residential licensing categories. Handbook Section 89405(a) is being deleted because it applies to requirements for foster family agencies to provide training. Quotation marks are being deleted from the noted handbook sections because they are used to quote major lettered or numbered paragraph headings rather than lettered subparagraph headings in statute.

b) Identification of Documents Upon Which Department Is Relying

Assembly Bill (AB) 458, Chapter 331, Statutes of 2003

Assembly Bill (AB) 1412, Chapter 640, Statutes of 2005

Assembly Bill (AB) 2661, Chapter 643, Statutes of 2004

c) Local Mandate Statement

These regulations do not impose a mandate on local agencies or school districts. There are no state-mandated local costs in these regulations which require state reimbursement under Section 17500 et seq. of the Government Code.

d) Statement of Alternatives Considered

CDSS has made an initial determination that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action.

e) Statement of Significant Adverse Economic Impact On Business

CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.